

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

0.634 ACRES OF LAND, MORE OR LESS,
SITUATE IN HIDALGO COUNTY,
STATE OF TEXAS; AND LEOPOLDO L.
GARZA, ET AL.,

Defendants.

§
§
§
§
§
§
§
§
§
§
§

CASE NO. 7:20-CV-183

**JOINT MOTION FOR ENTRY OF ORDER SETTING FILING DEADLINES
FOR TITLE HEARING BY SUBMISSION**

TO THE HONORABLE COURT:

1. The Plaintiff, United States of America, and Defendants Leopoldo L. Garza, Celeste Yvette Trevino Garza, Chris Edward Chestnut, Ruth Aguirre Lopez Chestnut, Lilly Elizabeth Chestnut and Ian Adair Chestnut respectfully request the Court enter an Order Setting Filing Deadlines for Title Hearing by Submission for the purpose of determining the ownership of the Subject Property prior to its condemnation.

I. INTRODUCTION

2. The United States Army Corps of Engineers attempted to negotiate a direct purchase of a fee simple interest in real property identified as Tracts RGV-MCS-2042 and RGV-MCS-2042E-1 with the owners of record, Leopoldo L. Garza and Celeste Yvette Trevino Garza. During title review, it was discovered that the Chestnut family may have an interest in the property that dates back to the 1950s that necessitated the filing of the instant condemnation case. On July 6, 2020, the United States filed a Declaration of Taking for the condemnation of a fee simple interest in

Tracts RGV-MCS-2042 & RGV-MCS-2042E-1.¹ On July 20, 2020, the United States deposited \$17,776.00 into the Registry of the Court as estimated just compensation for Tracts RGV-MCS-2042 & RGV-MCS-2042E-1.²

II. ISSUE TO BE DECIDED

3. The only issues remaining in this case are the determination of (1) the identification of the parties entitled to just compensation for the taking of the Subject Property and (2) the amount of just compensation to be paid for the property.

4. It is well-established that federal courts sitting in condemnation cases are authorized to determine who among competing claimants held title to land prior to its condemnation. *United States v. 22,680 Acres of Land in Kleberg Cty., Tex.*, 438 F.2d 75, 77 (5th Cir. 1971); *Clark v. White*, 185 F.2d 528, 530 (5th Cir. 1950). In construing Federal Rule of Civil Procedure 71.1(h) [then Rule 71A(h)], the United States Supreme Court explained:

The Rule provides that, except for the single issue of just compensation, the trial judge is to decide all issues, legal and factual, that may be presented . . . It is for him to decide ‘all issues’ other than the precise issue of the amount of compensation to be awarded.

United States v. Reynolds, 397 U.S. 14, 19-20 (1970). Federal courts look to the substantive law of the state in which the property is located to determine a party’s interest in land. *See United States ex. rel. Tennessee Valley Authority v. Powelson*, 319 U.S. 266, 279 (1943). Where more than one party claims ownership of land, the burden is on the claimant to establish his or her right to the property in question. *See United States v. Lee*, 360 F.2d 449, 452 (5th Cir. 1966). Plaintiff, United States of America, takes no advocacy position regarding title matters in its role as *amicus*

¹ Dkt. No. 2.

² *See* Dkt. No. 14.

curiae. See United States v. Certain Lands in Town of Hempstead, 129 F.2d 918, 920 (2d Cir. 1942).

III. CONCLUSION

5. The parties request that this Court set a briefing schedule in order to ultimately determine ownership of the Subject Property prior to its condemnation.

FOR DEFENDANTS:
WITH PERMISSION

s/ Leopoldo L. Garza (w/ permission)
Leopoldo L. Garza

s/ Celeste Yvette Trevino Garza (w/ permission)
Celeste Yvette Trevino Garza

s/ Chris Edward Chestnut (w/permission)
Chris Edward Chestnut

s/ Ruth Aguirre Lopez Chestnut (w/ permission)
Ruth Aguirre Lopez Chestnut

s/ Lilly Elizabeth Chestnut (w/permission)
Lilly Elizabeth Chestnut

s/ Ian Adair Chestnut (w/ permission)
Ian Adair Chestnut

Respectfully submitted,

RYAN K. PATRICK
United States Attorney
Southern District of Texas

By: s/ N. Joseph Unruh
N. JOSEPH UNRUH

Assistant United States Attorney
Southern District of Texas No. 1571957
Texas Bar No. 24075198
1701 W. Bus. Hwy. 83, Suite 600
McAllen, TX 78501
Telephone: (956) 618-8010
United States Attorney
Facsimile: (956) 618-8016
E-mail: Neil.Unruh@usdoj.gov
Attorney in Charge for Plaintiff

CERTIFICATE OF SERVICE

I, N. Joseph Unruh, Assistant United States Attorney for the Southern District of Texas, hereby certify that on this 18th day of September 2020, a copy of the foregoing was served on all parties in accordance with the Federal Rules of Civil Procedure.

s/ N. Joseph Unruh
N. JOSEPH UNRUH
Assistant United States Attorney